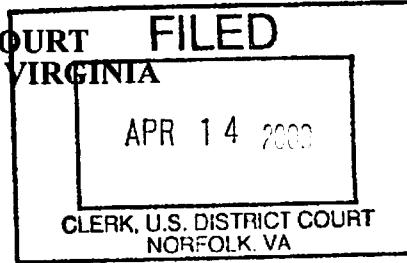


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



KUPENDA YOUNG, #351511,

Petitioner,

v.

ACTION NO. 2:08cv339

GENE JOHNSON,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's convictions on August 31, 2005, in the Circuit Court for the City of Williamsburg and the County of James City for second-degree murder and abduction. On October 17, 2005, Petitioner was sentenced to thirty years imprisonment for murder and five years imprisonment for abduction.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on March 6, 2009, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On March 17, 2009, the Court received Petitioner's Objections to the Report and Recommendation, and the Court received Petitioner's Amended Objections on April 1, 2009.

The Court, having reviewed the record and examined the objections filed by the Petitioner to the United States Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed March 6, 2009. It is, therefore, ORDERED that Respondent's motion to dismiss be GRANTED and that the petition be DENIED and

DISMISSED.

It is further ORDERED that judgment be entered in favor of the Respondent.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to Petitioner and counsel of record for the Respondent.



Raymond A. Jackson
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 14 , 2009